

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION**

**DAVID HAVERKAMP**

**TDCJ NO. 00702013**

**Plaintiff,**

**v.**

**JOSEPH PENN, *et al.*,**

**Defendants,**

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**Civil No. 2:17-CV-00018**

**Jury Demand**

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**DEFENDANTS JOINT RULE 25(d) SUBSTITUTION OF PARTIES**

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**TO THE HONORABLE JUDGE OF THE DISTRICT COURT:**

Defendants Owen Murray, Cynthia Jumper, F. Parker Hudson, John Mills, Ben Raimer, and Lannette Linthicum, submit this substitution of parties pursuant to FED. R. CIV. P 25(d).

**STATEMENT OF THE CASE**

Plaintiff David Haverkamp brought suit against numerous individuals seeking prospective injunctive relief. The proper defendants able to grant the relief Haverkamp seeks were previously identified as the members of the Correctional Managed Health Care Committee. ECF Nos. 70, 71, 73. In March of 2018, when the advisory was filed, the committee was comprised of the following individuals: Ben Raimer M.D., Owen Murray D.O., Cynthia Jumper M.D., F. Parker Hudson M.D., Tamela Griffin, John Mills D.O., Margarita de la Garza-Grahm M.D., Harold Berenzweig M.D., Elizabeth Ann Linder M.D., Mary Annette Gary D.O., and Lannette Linthicum M.D..<sup>1</sup> All defendants are sued in their official capacity as members of the CMHCC and only in that capacity.

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<sup>1</sup> Margarita de la Garza-Grahm, Harold Berenzweig, Elizabeth Ann Linder, Tamela Griffin and Mary Annette Gary, have not yet made appearances in this matter. These individuals were leaving or subsequently left the CMHCC and their replacements had yet to be determined when the Magistrate issued her report and recommendation.

## MOTION TO SUBSTITUTE DEFENDANTS

As of April 7, 2020, the CMHCC is comprised of the following individuals:

1. Lannette Linthicum
2. Cynthia Jumper
3. F. Parker Hudson
4. Rodney Burrow
5. Preston Johnson, Jr.
6. Philip Keiser
7. John Burruss
8. Erin Wyrick
9. Jeffrey Beeson
10. Dee Budgewater

Ben Raimer, Owen Murray, John Mills, Margarita de la Garza-Grahm, Harold Berenzweig, Elizabeth Ann Linder, Tamela Griffin and Mary Annette Gary are no longer on the committee.

Pursuant to FED. R. CIV. P 25(d), Defendants seek to substitute the following parties to this cause of action:

Rodney Burrow, Preston Johnson, Jr., Philip Keiser, John Burruss, Erin Wyrick, Jeffrey Beeson and Dee Budgewater will be substituted as defendants for Owen Murray, John Mills, Ben Raimer, Margarita de la Garza-Grahm, Harold Berenzweig, Elizabeth Ann Linder, and Mary Annette Gary. The claims against them are in their official capacity for prospective injunctive relief only. For clarity, Defendants seek an order of dismissal of all claims against Ben Raimer, Margarita de la Garza-

Grahm, Harold Berenzweig, Elizabeth Ann Linder, Tamela Griffin, Mary Annette Gary, Owen Murray, and John Mills.<sup>2</sup>

The remaining Defendants would ask the court for 30 days from the date of the substitution to obtain requests for representation from the seven newly substituted defendants and file an appropriate answer or pleading to Plaintiff's claims.

PRAYER

Defendants pray this Court recognize the aforementioned substitution of parties, enter an order dismissing the improper parties, and allow for 30 days to obtain authority to represent the newly substituted defendants and answer on their behalf.

Respectfully submitted,

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Attorney General of Texas

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**BRUCE R. GARCIA**

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<sup>2</sup> It is unclear as to whether Dr. Joseph Penn is still a Defendant. The Court ordered Plaintiff to amend the complaint to include only the CMHCC members, which Plaintiff did on October 5, 2017. ECF No. 70, 71. The Court then entered a Show Cause Order to Plaintiff as to why Dr. Penn should not be dismissed. ECF No. 72. The Court then ordered service on all CMHCC principal members but did not formally dismiss Dr. Penn in an Order. ECF No. 73. Pacer lists Dr. Penn as terminated on October 5, 2017, but Defendants seek clarification as to his termination from this suit.

**ATTORNEYS FOR DEFENDANT  
LANNETTE LINTHICUM**

/s/ Briana M. Webb

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### NOTICE OF ELECTRONIC FILING

I, **BRUCE R. GARCIA**, Assistant Attorney General of Texas, certify that I have electronically submitted for filing a true and correct copy of the above and foregoing, **Defendants' Joint Rule 25(d) Substitution of Parties**, in accordance with the Electronic Case Files system of the Southern District of Texas on this 8<sup>th</sup> day of April 2020.

/s/ BRUCE R. GARCIA  
**BRUCE R. GARCIA**  
Assistant Attorney General

### CERTIFICATE OF SERVICE

I, **BRUCE R. GARCIA**, Assistant Attorney General of Texas, certify that counsel of record are served with the foregoing via the Southern District Electronic Case File System and that I have served Plaintiff with a true and correct copy of **Defendants' Joint Rule 25(d) Substitution of Parties** by placing in the U.S. Mail, certified, on this 8<sup>th</sup> day of April 2020, addressed to:

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/s/ BRUCE R. GARCIA  
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